
NIAGARA FALLS PUBLIC WATER AUTHORITY

and

NIAGARA FALLS WATER BOARD

FINANCING AGREEMENT

DATED AS OF

APRIL 1, 2003

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FINANCING AGREEMENT

THIS FINANCING AGREEMENT dated as of April 1, 2003 (the "Financing Agreement") by the NIAGARA FALLS PUBLIC WATER AUTHORITY (the "Authority"), a body corporate and politic constituting a public benefit corporation of the State of New York, and the NIAGARA FALLS WATER BOARD (the "Board"), a body corporate and politic constituting a corporate municipal instrumentality of the State of New York.

WITNESSETH:

WHEREAS, the Authority was created by Chapter 275 of the Laws of 2002 of the State of New York (the "State"), constituting the Niagara Falls Public Water Authority Act, codified as Section 1230-a through 1230-aa of Title 10-B of Article 5 of the Public Authorities Law of the State, as amended (the "Authority Act"), and is vested with the powers and duties described in the Authority Act, including the power to borrow money, issue debt and enter into agreements with the Board and the City of Niagara Falls (the "City"), for the financing by the Authority of "projects", as such term is defined in the Authority Act such projects being hereinafter referred to as "Projects"); and

WHEREAS, the Board was created by Chapter 325 of the Laws of 2002 of the State, codified as Section 1231-a of Title 10-C of Article 5 of the Public Authorities Law of the State (the "Board Act") (the Board Act and the Authority Act, as amended from time to time, are hereinafter collectively referred as the "Act") and, pursuant to the provisions of the Act, the Board is authorized to enter into agreements with the Authority and the City to provide a means whereby the Authority can finance the cost of constructing Projects and the Board can (A) agree to assume title to the System (as hereinafter defined), and (B) raise revenues from Users through fees, rates, rents or other service charges necessary or appropriate to secure such financing and to pay the cost of the operation, management, maintenance and repair of the System (hereinafter referred to as the "System"); and

WHEREAS, pursuant to the provisions of Section 1230-c of the Act, the Authority, the Board and the City are authorized to enter into agreements for the acquisition, construction and financing of certain Projects (as defined in the Act), including the transfer of the System from the City to the Board, for use in the exercise of the corporate powers and purposes of the Board; and

WHEREAS, pursuant to the provisions of section 1230-h of the Act, the Mayor of the City and the Chairman of the Board, with the concurrence of the Authority, have duly executed and delivered a certain acquisition agreement dated as of April 1, 2003 (the "Acquisition Agreement") providing for the transfer of the System by the City to the Board; and

WHEREAS, pursuant to the provisions of section 1230-h of the Act, the Mayor of the City and the Chairman of the Board, have duly executed and delivered a certain Operation

Agreement dated as of April 1, 2003, for the management, operation, maintenance and repair of the System (the "Operation Agreement"); and

WHEREAS, pursuant to the provisions of the Act, (A) the Board by resolution has duly authorized the Chairman or Vice Chairman of the Board to execute and deliver this Financing Agreement on behalf of the Board, and (B) the Authority by resolution has duly authorized the Chairman or Vice Chairman of the Authority to execute and deliver this Financing Agreement on behalf of the Authority.

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES AND OF THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS:

ARTICLE I

DEFINITIONS

SECTION 1.1. DEFINITIONS. (A) The following words and terms used in this Financing Agreement shall have the respective meanings set forth below unless the context or use clearly indicates another or different meaning or intent:

"Account" shall mean any of the special accounts created and established pursuant to the Resolution and/or the Financing Agreement.

"Acquisition Agreement" shall mean the Acquisition Agreement dated as of April 1, 2003 by and between the City and the Board with respect to the acquisition by the Board of the System, as the same may from time to time hereafter be amended or supplemented, in accordance with the provisions thereof and of the Resolution.

"Acquisition Date" shall mean the date of the conveyance of the System by the City to the Board pursuant to the Acquisition Agreement.

"Act" shall mean collectively, the Authority Act and the Board Act.

"Aggregate Debt Service" shall mean, for any Fiscal Year, as of any date of calculation, the sum of the Debt Service for all Bonds outstanding under the Resolution and any Supplemental Resolution and additional Indebtedness during such Fiscal Year.

"Annual Budget" shall mean the annual budget of the Board, as amended or supplemented, adopted or in effect for a particular Fiscal Year, as provided in Section 6.4 of the Financing Agreement.

"Appendix A" shall mean Appendix A to this Financing Agreement, as the same may be amended from time to time in accordance with the provisions of this Financing Agreement.

"Authority" shall mean the Niagara Falls Public Water Authority, a body corporate and politic constituting a public benefit corporation of the State, created and existing under and by virtue of the provisions of the Authority Act.

"Authority Act" shall mean Chapter 275 of the Laws of 2002 of the State, constituting the Niagara Falls Public Water Authority Act, codified as Sections 1230-a through 1230-aa of Title 10-B of Article 5 of the Public Authorities Law of the State, as amended from time to time.

"Authority Budget" shall mean the annual budget of the Authority adopted or in effect for a particular Fiscal Year pursuant to the provisions of the Resolution, as amended or supplemented pursuant to the provisions of the Resolution.

"Authority Expense Fund" shall have the meaning ascribed thereto in the Resolution.

"Authority Expenses" shall mean all reasonable or necessary expenses of the Authority, including, but not limited to, all salaries, administrative, general, commercial, engineering, advertising, auditing, accounting and legal expenses, insurance and surety bond premiums, fees paid to banks, insurance companies or other financial institutions for the issuance of Credit Facilities, consultants' fees and charges, payments to pension, retirement, health and hospitalization funds, costs of public hearings and public notices, ordinary and current rentals of equipment and other property, lease payments for real property or interests therein, expenses, liabilities and compensation of any Fiduciary, and all other expenses necessary, incidental or convenient for the efficient operation of the Authority.

"Authorized Representative" shall mean (A) in the case of both the Authority and the Board, their respective Chairpersons, or such other person or persons so designated by resolution or the by-laws of the Authority or the Board, as the case may be, to perform the act or sign the document in question and (B) in the case of the City, the Mayor, or, in the absence or incapacity of the Mayor, such other person authorized, to act on behalf of the City in the Mayor's absence or incapacity.

"Bank" shall mean the bank, trust company or banking association (which may be the Trustee) designated by the Board to act as depository for the funds of the Board.

"Board" shall mean the Niagara Falls Water Board, a body corporate and politic constituting a corporate municipal instrumentality of the State created and existing under and by virtue of the Board Act.

"Board Act" shall mean Chapter 325 of the Laws of 2002 of the State, constituting the Niagara Falls Water Board Act, codified as Section 1231-a of Title 10-C of Article 5 of the Public Authorities Law of the State, as amended from time to time.

"Board Expense Account" shall mean the Board Expense Account established within the Local Water Fund by, and held in the custody of, the Board pursuant to Section 4.2(A) of this Financing Agreement.

"Board Expenses" shall mean all reasonable or necessary expenses of the Board, including, but not limited to, all Operating Expenses, costs of improvements to the System not otherwise paid from the Construction Account, all salaries, administrative, general, commercial, engineering, advertising, auditing, accounting and legal expenses, insurance and surety bond premiums, consultants fees and charges, payment to pension, retirement, health and hospitalization funds, costs of public hearings and public notices, ordinary and current rentals of equipment and other property, lease payments for real property or interests therein, expenses, liabilities and compensation of any depository of funds of the Board, and all other expenses necessary, incidental or convenient for the operation of the Board.

"Bond" or "Bonds" shall have the meaning ascribed thereto in the Resolution.

"Bond Anticipation Note" or "Bond Anticipation Notes" shall have the meaning ascribed thereto in the Resolution.

"Bondholder" or "Bondholders" shall have the meaning ascribed thereto in the Resolution.

"Budget Documents" shall have the meaning set forth in Section 6.4(B) of this Financing Agreement.

"Capital Improvement Plan" shall mean a written plan for Construction of Projects for the System and the Facilities of the Board, as shall be established by mutual agreement for the Authority and the Board, and as may be amended from time to time, and may include the Projects described in Appendix A.

"City" shall mean the City of Niagara Falls, a municipal corporation of the State.

"City Council" shall mean the City Council of the City.

"Controller" shall mean the controller of the City.

"Construction" shall have the meaning assigned such term in subsection 6 of Section 1230-b of the Act.

"Construction Account" shall mean the Construction Account established within the Local Water Fund by, and held in the custody of the Board pursuant to Section 4.2(A) of this Financing Agreement.

"Consulting Engineer" shall mean such independent engineer or firm of engineers of recognized standing selected by the Authority in consultation with the Board.

"Cost" or "Cost of a Project" shall mean all costs of Construction, including, without limitation, the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of the System or a Project or any portion of either, the inspection and supervision thereof, the engineering, architectural, legal, fiscal, economic and environmental investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto; the cost of the acquisition of all Property; the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated; the cost of all systems, facilities, machinery, apparatus, vehicles and equipment, financing charges, interest prior to, during and after Construction; the cost of engineering and architectural surveys, plans and specifications; the cost of consultants and legal services; the cost of lease guarantee or bond insurance; other expenses necessary, reasonably related or incidental to the Construction of such Project and the financing of the Construction thereof, including the cost of Credit Facilities, the amounts authorized in the Resolution or any Supplemental Resolution to be paid into any reserve or other special fund from the proceeds of Bonds and the financing of the placing of any Project in operation, including reimbursement to any municipality, state agency, the State, the United States of America, or any other person for expenditures that would be costs of such Project hereunder; and all claims arising from any of the foregoing.

"Credit Facility" shall have the meaning ascribed thereto in the Resolution.

"Debt Service" shall have the meaning ascribed thereto in the Resolution.

"Debt Service Fund" shall have the meaning ascribed thereto in the Resolution.

"Debt Service Reserve Fund" shall have the meaning ascribed thereto in the Resolution.

"Disbursement Request" shall have the meaning ascribed thereto in the Resolution.

"Facilities" shall mean any of the Properties of the Authority or the Board or any other real property, personal or mixed property controlled, leased or operated by the Authority or the Board which is used or intended to be used in the System or in furtherance of their respective corporate purposes.

"Fiduciary" shall mean the Trustee, any representative of the Bondholders appointed by Resolution, Supplemental Resolution, each paying agent, or any successor thereto.

"Financing Agreement" shall mean this Financing Agreement dated as of April 1, 2003 entered into pursuant to Section 1230-i of the Act by and between the Authority and the Board, as the same may be from time to time hereafter amended or supplemented in accordance with the provisions of this Financing Agreement and of the Resolution.

"Fiscal Year" shall mean the twelve-month period for both the Authority and the Board, commencing on January 1 of each year; provided, however, that the Authority and the Board may, from time to time, mutually agree on a different twelve-month period as the Fiscal Year, in which case January 1, when used herein with reference to a Fiscal Year, shall be construed to mean the first day of the first calendar month of such different Fiscal Year and provided, further, that the first Fiscal Year of the Board and the Authority shall commence on the date of the issue of the first series of Bonds pursuant to the Resolution, and shall end on December 31 of the calendar year in which such Bonds were issued.

"Force Majeure" means any of the following events: strikes, lockouts, labor disputes, embargoes, naturally occurring flood, earthquake, storm, dust storm, lightning, fire, epidemic, acts of God, war, national emergency, civil disturbance or disobedience, riot, sabotage, terrorism, threats of sabotage or terrorism, restraint by court order or order of public authority, and similar occurrences beyond the reasonable control of the party in question (financial inability excepted), that make compliance with any of its material obligations under this Financing Agreement in a timely manner impracticable or impossible.

"Fund" shall mean any fund established pursuant to the Resolution.

"Generally Accepted Accounting Principles" shall mean those accounting principles applicable in the preparation of financial statements of municipalities, authorities, or corporations as appropriate, as promulgated by the Financial Accounting Standards Board or such other body recognized as authoritative by the American Institute of Certified Public Accountants or any successor body.

"General Account" shall mean the Niagara Falls Water Board General Account established within the Local Water Fund by, and held in the custody of, the Board pursuant to Section 4.2(A) of this Financing Agreement.

"Indebtedness" means, as to the Authority, at a particular time, all items which would, in conformity with Generally Accepted Accounting Principles, be classified as liabilities on a balance sheet of the Authority at such time, but in any event including without limitation (a) indebtedness arising under acceptance facilities or in respect of all letters of credit issued for the account of the Authority and, without duplication, all drafts drawn thereunder, (b) obligations under leases which have been, or under Generally Accepted Accounting Principles are required to be, capitalized, and (c) all indebtedness secured by (or for which the holder of such indebtedness has the right to be secured by) any mortgage, deed of trust, pledge, security interest or other lien, charge or encumbrance upon property owned or acquired subject to such mortgage, deed of trust, pledge, security interest, lien, charge or encumbrance, whether or not the liabilities secured thereby have been assumed. Indebtedness shall not in any event include (a) current obligations payable from current revenue, including current payments for the funding of pension or other employee benefit plans (which shall be considered Operating Expenses) but shall include the current portion of Indebtedness classified as a current obligation under General Accepted Accounting Principles; (b) obligations under contracts for supplies, services and pensions, allocable to current operating expenses of future years in which the supplies are to be

furnished, the services rendered or the pension benefits paid (which shall be considered Operating Expenses in such future years); and (c) rentals payable in future years under leases, other than leases properly capitalized under General Accepted Accounting Principles (which shall be considered Operating Expenses in such future years).

"Industry Standards" shall mean generally accepted engineering, operational and maintenance practices and requirements of applicable law, regulation or permit for water, wastewater and stormwater facilities of the size, type and age of the System and comparable facilities in the State.

"Local Water Fund" shall mean the special fund by that name established by Section 1230-j of the Act in the custody of the Board.

"Mayor" shall mean the Mayor of the City or such other person duly authorized to act upon behalf of the City in the Mayor's absence or incapacity.

"Minimum Monthly Balance" shall have the meaning ascribed thereto in Section 4.3 of this Financing Agreement.

"Operating Expenses" shall mean all reasonable or necessary current expenses of the Board for operating, maintaining, repairing, and managing the System, including all salaries, administrative, general, commercial, architectural, engineering, advertising, public notices, auditing, billing, collection and enforcement and legal expenses, insurance and surety bond premiums, consultants fees and charges, payments to pension, retirement, health and hospitalization funds, any taxes or assessments which may lawfully be imposed on the System or the income or operation thereof, costs of public hearings, ordinary and current rentals of equipment or other property, lease payments for real property or interest therein, usual expenses of maintenance and repair (including replacements), expenses, liabilities and compensation of the Bank or any other depository of Board funds, the amount of any judgment or settlement arising out of a tort claim related to the ownership, Construction, repair, administration, operation or maintenance of the System, payments to independent contractors of the Board related to the operation, maintenance, repair (including replacements), administration and management of the System and all other expenses necessary, incidental or convenient for the operation of the System, but only to the extent properly attributable to the Board or the System, including but not limited to all amounts payable pursuant to Section 6.1(B) of the Operation Agreement.

"Operation Agreement" means the Operation Agreement dated as of April 1, 2003 between the City, the Authority and the Board providing for the management, operation, maintenance and repair of the System by the Board, as the same may be from time to time hereafter amended or supplemented in accordance with the provisions of the Operation Agreement and the Resolution.

“Operation and Maintenance Reserve Account” shall mean the Board Operation and Maintenance Reserve Account established within the Local Water Fund by, and held in the custody of the Board pursuant to Section 4.2(A) of this Financing Agreement.

“Permitted Encumbrances”, when used with reference to the System, shall mean (A) any and all liens, encumbrances, security interests or other defects in or clouds on title which may exist on the Acquisition Date, (B) utility, access and other easements, rights of way and exceptions which do not materially impair the operation or maintenance of the System or the Revenues therefrom, (C) mechanics’, materialmen’s, warehousemen’s, carriers’ and other similar liens, to the extent permitted by law, and liens for taxes at the time not delinquent or being contested, and (D) any lien or security interest which the Board grants with the written consent of the Authority.

“Person” shall mean any natural person, firm, trustee, executor, personal representative, partnership, association, limited partnership, limited liability company, limited liability partnership, joint venture or corporation, or other legal entity whatsoever, including a public corporation as defined pursuant to Article Two-A of the General Construction Law. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

“PILOT Payment Account” shall mean the Board PILOT Payment Account established within the Local Water Fund by and held in the custody of the Board pursuant to Section 4.2(A) of this Financing Agreement.

“Principal Installment” shall have the meaning ascribed thereto in the Resolution.

“Project” shall mean any System-related Facility or Properties, including the acquisition, planning, development, financing or construction thereof.

“Projected Debt Service” shall mean, for any Fiscal Year or part thereof, as of any date of calculation, and with respect to any Projected Series of Bonds, an amount (set forth by the Authority in the Authority Budget as provided in Section 6.4 of this Financing Agreement) equal to the Debt Service estimated by the Authority to be payable during such Fiscal Year or part thereof on such Projected Series of Bonds.

“Projected Series of Bonds” or “Projected Series” shall mean any series of Bonds described in the Authority Budget as anticipated to be issued in the Fiscal Year to which such Authority Budget relates.

“Property” shall mean any interest in any kind of property or asset, whether real, personal or mixed, tangible or intangible.

“Rate Consultant” shall mean such independent accountant or firm of independent accountants, or management consultant or firm of management consultants or independent

engineer or firm of independent engineers (which may be the same firm then serving as the Consulting Engineer), selected by the Board in consultation with the Authority.

"Rebate Fund" shall have the meaning ascribed thereto in the Resolution.

"Refundable Principal Installment" shall have the meaning ascribed thereto in the Resolution.

"Required Deposits" shall mean, for any Fiscal Year, amounts, if any, payable into the Authority Expense Fund, the Debt Service Reserve Fund and the Operation and Maintenance Reserve Fund (including amounts required to be transferred from the Authority Expense Fund), but only to the extent such payments are required to be made from Revenues pursuant to the Resolution.

"Reserve Fund" shall have the meaning ascribed thereto in the Resolution.

"Resolution" shall mean the System General Revenue Bond Resolution to be adopted by the Authority prior to the issuance of the first issue of its Bonds, as the same may be amended or supplemented from time to time by one or more Supplemental Resolutions.

"Revenues" shall mean (a) all rates, rents, fees, charges, payments, fines and other income and receipts derived by the Board from Users of the System, (b) all monies derived from investments, including but not limited to, interest earnings and proceeds of insurance, condemnation, sale or other disposition of the System or any part thereof received by the Board (other than the proceeds of insurance with respect to the damage or destruction of all or any portion of the System), together with all operating aid with respect to the System from any governmental entity, Federal, State or local, to the Board, (c) amounts from the use of water, wastewater or stormwater to generate electricity, (d) any amounts from the granting of easements, licenses, rights of way or other interests in property constituting a part of the System, (e) revenue from any other source however described or derived; but shall not include (1) amounts required to be refunded because of billing or payment errors, and (2) any amount attributable to any of the foregoing sources described in clause (a) which is expressly excluded by this Financing Agreement.

"Series" or "Series of Bonds" shall mean all of the Bonds authenticated and delivered on original issuance and identified pursuant to the Resolution or any Supplemental Resolution authorizing such Bonds as a separate Series of Bonds and any Bonds thereafter authenticated and delivered in lieu of or in substitution therefor pursuant to the Resolution regardless of varieties in maturity, interest rate or other provisions.

"State" shall mean the State of New York.

"Subordinated Indebtedness" shall mean any bond, note or other evidence of indebtedness issued by the Authority in furtherance of its corporate purposes under the Act and payable from the Subordinated Indebtedness Fund established pursuant to the Resolution.

"Subordinated Indebtedness Fund" shall have the meaning ascribed thereto in the Resolution.

"Supplemental Resolution" shall mean a resolution of the Authority authorizing the issuance of a Series of Bonds or otherwise amending or supplementing the Resolution, adopted at the time of or subsequent to the adoption of the Resolution in accordance with the provisions of the Resolution.

"System" shall mean the entirety of all water, wastewater and stormwater Facilities and Properties of the Board or the Authority.

"Trustee" shall mean the bank or trust company appointed as Trustee pursuant to the Resolution, and its successor or successors and any other person which may at any time be substituted in its place pursuant to the Resolution.

"User" shall mean any Person or effluent source that directly or indirectly contributes, causes or permits the contribution of waste into or through the System, or any property or Person that directly or indirectly uses or in any way benefits from the System.

"Water Charges" shall mean any charge, fee, rate, rent or other imposition, including interest and penalties thereon of the Board for the use of the System, including but not limited to water, sewer, wastewater and/or stormwater Facilities.

"Water Project" shall mean any Water Facility as such term is defined in subsection 30 of Section 1230-b of the Act and shall include any Project as defined herein and as such Project may be undertaken pursuant to an agreement by and among the Authority, the Board, any Person and/or the City pursuant to section 1230-i of the Act.

SECTION 1.2. INTERPRETATION. In this Financing Agreement, unless the context requires otherwise:

(A) The terms "hereby", "hereof", "herein", "hereunder" and any similar terms as used in this Financing Agreement, refer to this Financing Agreement, and the term "heretofore" shall mean before, and the term "hereafter" shall mean after, the date of this Financing Agreement.

(B) Words of masculine gender shall mean and include correlative words of feminine and neuter genders.

(C) Words importing the singular number shall mean and include the plural number, and vice versa.

(D) Any certificates, letters or opinions required to be given pursuant to this Financing Agreement shall mean a signed document attesting to or acknowledging the

circumstances, representations, opinions of law or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Financing Agreement.

(E) All words and terms shall be liberally construed to enable the parties hereto to perform, carry out and achieve the purposes and powers of the parties hereto, granted and established in the Act and this Financing Agreement. In the event any term or word in this Financing Agreement is not defined herein, the parties shall use the definition thereof contained in the Act, to the extent applicable.

SECTION 1.3. AGREEMENT WITH BONDHOLDERS. Subject in all respects to the provisions of Article XI hereof, the Authority and the Board agree that this Financing Agreement is executed in part to induce the purchase of the bonds, notes and other evidences of indebtedness of the Authority (including the Bonds) issued from time to time, and all representations, warranties, covenants and agreements contained in this Financing Agreement are declared to be for the benefit of the holders thereof.

ARTICLE II

AGREEMENT AS TO PROJECTS AND REVENUES

SECTION 2.1. AGREEMENT TO FINANCE PROJECTS; DESCRIPTION. The Authority shall use its best efforts to finance all or a part of the Cost of the Projects described in Appendix A by the issuance of Bonds from time to time in accordance with the Resolution. The total Cost of said Projects shall be financed in accordance with the description set forth in Appendix A and the Capital Improvement Plan. Appendix A and the Capital Improvement Plan may, from time to time, upon approval by resolution of the Authority and the Board, be amended to add a Project or to delete or change a Project listed thereon or to change the scope or cost of a Project listed thereon, without the consent of the Trustee or the Bondholders. The financing by the Authority of any Project added or changed by such amendment shall be governed by the terms and conditions of this Financing Agreement and the Resolution.

SECTION 2.2. NO INDEBTEDNESS OF BOARD OR CITY. Nothing contained in this Financing Agreement, the Acquisition Agreement, the Operation Agreement, the Resolution or any other document or instrument executed and delivered in connection with any of them, shall be construed as creating an indebtedness of the Board or the City within the meaning of any constitutional or statutory provision.

SECTION 2.3. AGREEMENT OF AUTHORITY AND BOARD AS TO PROJECTS. The Authority and the Board agree that the management, operation, maintenance and repair of any Projects financed in whole or in part pursuant to this Financing Agreement shall be carried out by the Board in accordance with the provisions of the Act and pursuant to the terms of this Financing Agreement and the Operation Agreement.

SECTION 2.4. GRANT OF REVENUES TO AUTHORITY. In consideration of the promises and agreements of the Authority contained herein and in consideration of the issuance of the Bonds by the Authority to finance Projects, the Board hereby pledges, gives, grants a security interest in, conveys and transfers to the Authority all of its right, title and interest in the Revenues, including, without limiting the generality of the foregoing, all of its rights to collect and receive the same, subject only to the provisions of this Financing Agreement and the Resolution permitting the application thereof for or to the purposes and on the terms and conditions herein and therein set forth.

SECTION 2.5. AGREEMENT OF THE STATE. Pursuant to Section 1230-r of the Act, the State has pledged and agreed that it will not alter or limit the rights vested by the Act in the Authority or the Board to fulfill the terms of any agreement made with or for the benefit of the Bondholders, or in any way impair the rights and remedies of Bondholders, until the Bonds, together with the interest thereon, with interest on any unpaid installment of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The Authority and the Board for the purpose of effectuating such pledge of the State do hereby certify that this Financing Agreement, the Resolution, the Operation Agreement and the Acquisition Agreement are all intended to be for the benefit of the Bondholders.

ARTICLE III

TRANSFER OF FUNDS

SECTION 3.1. APPLICATION OF BOND PROCEEDS TO PAY COSTS. The proceeds of the issuance of each Series of Bonds shall be deposited by the Authority with the Trustee and disbursed by the Trustee in accordance with the provisions of the Resolution and the applicable provisions of the Supplemental Resolution authorizing such Series of Bonds.

SECTION 3.2. PAYMENTS FROM CONSTRUCTION ACCOUNT. (A) The Costs incurred with respect to Projects shall be evidenced to the Authority by a certificate signed by an Authorized Representative of the Board. Each such certificate shall contain the information required to be set forth in a Disbursement Request. Upon receipt of such certificate, the Authority shall pay or submit a Disbursement Request for such costs to the Trustee to pay the Persons entitled thereto, in accordance with the provisions of the Resolution. The Authority may by resolution authorize the Trustee to disburse funds from the Construction Account to an account of the Board to pay for Costs of Projects.

(B) Moneys may be withdrawn from the Construction Account for the purpose of paying an amount equal to any final judgment arising out of claims against the Authority or the Board in any action, if the payment of such claims would constitute, a Cost of a Project. Withdrawals may be similarly made with respect to the settlement of any such action.

SECTION 3.3. PAYMENTS FROM LOCAL WATER FUND. (A) As provided in Section 4.7 hereof, moneys in the Construction Account in the Local Water Fund may be utilized to fund ongoing Projects undertaken by the Board in accordance with the provisions of the Operation Agreement.

(B) As provided in Section 4.6 hereof, moneys in the Board Expense Account in the Local Water Fund may also be utilized to fund ongoing Projects undertaken by the Board in accordance with the Capital Improvement Plan.

ARTICLE IV

PAYMENTS BY THE BOARD

SECTION 4.1. LOCAL WATER FUND. All Revenues, as promptly as practicable after receipt thereof by the Board, shall be deposited by the Board into the General Account within the Local Water Fund at the Bank. There shall also be deposited in the General Account within the Local Water Fund all amounts received by the Board from the Trustee pursuant to the Resolution. All amounts in the Local Water Fund shall be held in trust by the Board and applied only as provided herein, in the Act or in the Resolution.

SECTION 4.2. ESTABLISHMENT OF ACCOUNTS; APPLICATION OF REVENUES IN LOCAL WATER FUND. (A) The Board shall establish the following special accounts or sub-funds within the Local Water Fund:

(1) the Niagara Falls Water Board Expense Account (the "Board Expense Account");

(2) the Niagara Falls Water Board Operation and Maintenance Reserve Account (the "Operation and Maintenance Reserve Account");

(3) the Niagara Falls Water Board Construction Account (the "Construction Account");

(4) the Niagara Falls Water Board General Account (the "General Account");
and

(5) the Niagara Falls Water Board PILOT Payment Account (the "PILOT Payment Account");

each of which shall be held by the Board at the Bank in one or more Bank Accounts as the Board may determine.

(B) Such accounts shall be held by the Board as trust funds and the amounts on deposit therein shall be applied solely for the purposes provided herein and in the Operation Agreement.

(C) Commencing on the first day of each Fiscal Year and on each day thereafter, the Board shall make the following payments from the General Account within the Local Water Fund in the following order of priority:

FIRST: to the Trustee, for deposit in the Debt Service Fund, beginning with the first day of each calendar month, all Revenues in the Local Water Fund, until the balance in the Debt Service Fund equals the Minimum Monthly Balance as defined in Section 4.3 hereof, for each Series of Bonds in such month and to the Authority Expense Fund for all Authority Expenses attributable to the Fiscal Year in accordance with the Authority Budget;

SECOND: beginning with the first day of each calendar month, until paid in each calendar month, to the Board Expense Account, one-twelfth (or, with respect to the first Fiscal Year, a fraction, the numerator of which is one and the denominator of which is the number of calendar months or portions thereof in such first Fiscal Year) of the Board Expenses, including the amount certified to the Board pursuant to Section 6.2 of the Operation Agreement, for the then current Fiscal Year as shown in the Annual Budget, or the Board may establish with its Annual Budget an alternative payment schedule, concurred in by the Rate Consultant, for the upcoming Fiscal Year which equitably reflects both the timing of the Board's incurrence of Board Expenses and the timing of Board Revenues and fund balances, but in no event shall the establishment of such alternative payment schedule be deemed to affect in any manner the relative priority of the accounts or sub-funds established by items FIRST through SIXTH herein;

THIRD: from the balance, if any, in the General Account of the Local Water Fund after making the deposits required by the preceding paragraphs, to the Debt Reserve Fund and the Subordinated Indebtedness Fund in amounts required by the Resolution or otherwise to be deposited in such funds and to the Operation and Maintenance Reserve Account, all such Revenues until the total of the amounts so paid equals the amount, if any, required to be deposited therein pursuant to Section 4.4(A) hereof;

FOURTH: from the balance in the General Account in the Local Water Fund after making the deposits required by the preceding paragraphs, to the PILOT Payment Account until the balance therein equals the total amount budgeted for deposit therein in such Fiscal Year in the Annual Budget;

FIFTH: from the balance, if any, in the General Account in the Local Water Fund after making the deposits required by the preceding paragraphs, to the Construction Account until the balance therein equals the total amount budgeted for deposit therein in such Fiscal Year in the Annual Budget; and

SIXTH: the balance, if any, in the General Account in the Local Water Fund after making the deposits required by the preceding paragraphs, to the Operation and Maintenance Reserve Account.

(D) In making the payments required pursuant to paragraph FIRST of subsection (C) of this Section, the Board shall be entitled to rely on the Certificate of an Authorized Representative of the Authority described in subsection (E) of this Section.

(E) On the first day of each month, the Authority, or the Trustee as the Authority's agent, shall deliver to the Board a Certificate, setting forth the Authority's calculations of the Minimum Monthly Balance for each Series of Bonds outstanding for such month and the amounts required to be deposited in the Authority Expense Fund, Debt Service Reserve Fund and Subordinated Indebtedness Fund in such month.

SECTION 4.3. MINIMUM MONTHLY BALANCE. The Minimum Monthly Balance to be satisfied pursuant to paragraph FIRST of Section 4.2(C) shall be an amount equal to the sum of the aggregate amounts of Debt Service that have accrued with respect to all Series of Bonds, calculating the Debt Service that has accrued with respect to each Series of Bonds as an amount equal to the sum of (A) the interest on the Bonds of such Series that has accrued and is unpaid and that will have accrued by the end of the then current calendar month, reduced by the amount, if any, then on deposit in the Capitalized Interest Account in the Debt Service Fund, and (B) that portion of the next due Principal Installment for the Bonds of such Series that would have accrued (as deemed to accrue in the manner interest accrues) by the end of the then current calendar month.

SECTION 4.4. DEPOSITS INTO OPERATION AND MAINTENANCE RESERVE ACCOUNT. (A) There shall be deposited in the Operation and Maintenance Reserve Account in each Fiscal Year from the sources described in (B) below the amount required, if any, so that the amounts on deposit therein shall at least equal the amount of the deposit to the Operation and Maintenance Reserve Account set forth in the Board's Annual Budget for such Fiscal Year.

(B) In addition to the deposits made to the Operation and Maintenance Reserve Account pursuant to clauses THIRD and SIXTH of Section 4.2(C) hereof, additional deposits to the Operation and Maintenance Reserve Account may be made from monies remaining on deposit in the Local Water Fund after the payments provided for in Section 4.2(C) hereof have been made, including any accrued surplus on deposit in the Board Expense Account at the end of any Fiscal Year, or any other monies lawfully available therefor.

(C) The Board may establish sub-accounts in the Operation and Maintenance Reserve Account as the Board may deem appropriate.

SECTION 4.5. APPLICATION OF MONIES IN THE OPERATION AND MAINTENANCE RESERVE ACCOUNT. (A) (1) The amounts on deposit in the Operation and Maintenance Reserve Account may be used to pay the cost of extraordinary repairs to and replacements of the System, and (2) if there are insufficient funds in the Board Expense Account to pay the City the

requisite amounts (as such amounts are certified to the Board pursuant to Section 6.2 of the Operation Agreement) for Operating Expenses, the Board shall withdraw from the Operation and Maintenance Reserve Account and pay to the City, on demand, an amount equal to the amount required to be so paid, or the entire balance in the Operation and Maintenance Reserve Account if less than sufficient.

(B) After any payments and transfers required or permitted by Section 4.5(A) hereof are made, the amounts on deposit in the Operation and Maintenance Reserve Account may also be applied or transferred, as the case may be, by the Board as it determines in the best interest of the System, including but not limited to the following:

(1) on any date that there are insufficient funds in the Board Expense Account to pay Board Expenses then due and owing, to the Board Expense Account the amount of such deficiency;

(2) to pay, when due, the principal of and interest on bonds, notes or other obligations of the Authority (other than Bonds, Bond Anticipation Notes and Subordinated Indebtedness), together with all other amounts, certified by the Authority to the Board as necessary to make the required deposits, if any, to the reserve and other funds and accounts established for such bonds, notes or other obligations pursuant to the Resolution, trust indenture or other instrument under which such bonds, notes or other obligations were issued;

(3) to pay for Projects undertaken by the Board, including but not limited to procurement of vehicles and equipment for the System.

(C) If there is surplus on deposit in the Operation and Maintenance Reserve Account at the end of any Fiscal Year, then during the ensuing Fiscal Year, the Board may expend the portion of such surplus in any manner that the Board determines most beneficial for the System, unless the Authority notifies the Board that it does not concur with such application of the surplus and expenditure thereof.

SECTION 4.6. PILOT PAYMENT ACCOUNT. Except as otherwise provided herein, the Board shall annually make the PILOT payment as defined and provided for in Section 6.1(B)(4) of the Operation Agreement to the City after the annual budgeted amounts have been deposited in full into the following accounts: Debt Service Fund, Authority Expense Account Board Expense Account, the Debt Service Reserve Fund, Subordinated Debt Service Fund, the Operation and Maintenance Reserve Account and other required deposits. Partial payments of the PILOT payment may be made if the amount on deposit in the PILOT Payment Account exceeds the remaining amounts to be deposited in the above funds and accounts to satisfy the annual budget requirements and the partial payment amount will result in a balance in the PILOT Payment Account that still exceeds the remaining amounts to be deposited in the above funds and accounts to satisfy the annual budget requirements. The Board and Authority, at their joint discretion, may elect to prepay one or more years of PILOT payments through the proceeds of Bonds or funds other than System Revenues. Pursuant to Section 6.1(C) of the Operation Agreement, monies in the PILOT Payment Account can be used to pay Debt Service, Operating Expenses or make other required deposits only in the event of a shortfall of Board funds in a

given year. Budgeted or estimated deposits to the Construction Account are not considered required deposits for purposes of this Section.

SECTION 4.7. CONSTRUCTION ACCOUNT. (A) As the Board may determine, the amounts on deposit in the Construction Account shall be applied to ongoing Projects undertaken by the Board. Any request for payment of such costs by the Board shall be in writing and, if requested by the Authority, accompanied by bills or other evidences of such costs.

(B) The amounts on deposit in the Construction Account may also be applied to pay the principal of and interest on bonds, notes or other obligations of the Authority (other than Bonds, Bond Anticipation Notes and Subordinated Indebtedness), together with all other amounts, certified by the Authority to the Board as necessary to make the required deposits, if any, to the reserve and other funds and accounts established for such bonds, notes or other obligations pursuant to the resolution, trust indenture or other instrument under which such bonds, notes or other obligations were issued.

SECTION 4.8. APPLICATION OF REVENUES AFTER DEFAULT. Anything herein to the contrary notwithstanding, the Board covenants that, if an "Event of Default", as defined in the Resolution, shall occur and be continuing, the Board, upon demand of the Trustee, shall pay over or cause to be paid over to the Trustee all moneys and securities then held by the Board in the Local Water Fund and all Accounts created thereunder, and thereafter, as promptly as practical, the Revenues, for application in accordance with the provisions of the Resolution dealing with the application of moneys during the continuance of an Event of Default thereunder.

SECTION 4.9. AMOUNTS REMAINING. After all Bonds (and all other bonds, notes or other evidences of indebtedness) have been paid in full or are no longer outstanding pursuant to the provisions of the Resolution (or under any other resolution, trust indenture or similar document), and after payment of all other obligations and expenses of the Authority or provision for payment thereof has been made in accordance with the provisions of the Resolution (or under any other resolution, trust indenture or similar document), any amounts received or held by the Authority or the Trustee pursuant to the provisions of the Resolution (or under any other resolution, trust indenture or similar document) or this Financing Agreement shall be paid to the Board.

ARTICLE V

REPRESENTATIONS AND WARRANTIES; CONSENT TO ASSIGNMENT; INDEMNIFICATION

SECTION 5.1. REPRESENTATIONS AND WARRANTIES. (A) The Board makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(1) It is a body corporate and politic constituting a corporate municipal instrumentality duly organized and validly existing under the Constitution and the laws of the State, including the Act, and has full power and authority to (a) acquire the System pursuant to the Act and to carry out its purposes in the manner proposed to be conducted pursuant to this Financing Agreement, the Operation Agreement and the Acquisition Agreement; and (b) execute, deliver and to perform and observe all of the terms and provisions of this Financing Agreement, the Operation Agreement and the Acquisition Agreement.

(2) The execution, delivery and performance of this Financing Agreement have been duly authorized by all necessary action on the part of the Board.

(3) All by-laws and rules and regulations adopted by the Board relating to the Board and the System were duly adopted in conformity with the Act.

(B) The Authority makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(1) It is a body corporate and politic constituting a public benefit corporation duly organized and validly existing under the constitution and the laws of the State, including the Act, and has full power and authority to (a) issue its Bonds pursuant to the Act and the Resolution and to carry out its purposes in the manner proposed to be conducted pursuant to this Financing Agreement and the Resolution; and (b) execute, deliver and to perform and observe all of the terms and provisions of this Financing Agreement.

(2) The execution, delivery and performance of this Financing Agreement have been duly authorized by all necessary action on the part of the Authority.

(3) All by-laws and resolutions adopted by the Authority relating to the Authority and the Bonds were duly adopted in conformity with the Act.

SECTION 5.2. CONSENT TO ASSIGNMENT. The lien on the Revenues created pursuant to the Act and Section 2.4 hereof is made for the benefit of the Authority and the Bondholders. The Board hereby consents to the assignment by the Authority to the Trustee for the benefit of the Bondholders of the benefits and rights of the Authority provided by this Financing Agreement, including, without limitation, the lien upon the Revenues created pursuant to the Act and Section 2.4 hereof and the pledge and agreement of the State included herein, pursuant to Section 1230-r of the Act and set forth in Section 2.5 hereof, to the extent set forth in the Resolution.

SECTION 5.3. INDEMNIFICATION. (A) The Authority agrees to keep, save and hold harmless the Board and its members, officers, employees and agents from any and all liability, loss or damage from or in connection with any act done or omitted by the Authority at any time after the Acquisition Date with respect to or in connection with the System which was or is taken or omitted. The Board agrees to keep, save and hold harmless the Authority and its members, officers, employees and agents from any and all liability, loss or damage from or in connection

with any act done or omitted by the Board at any time after the Acquisition Date with respect to or in connection with the System which was or is taken or omitted.

(B) The right to indemnification set forth above is expressly subject to satisfaction of the following conditions:

(1) The Board or the Authority, as the case may be, shall promptly forward to the indemnifying party all summonses or notices pertaining to claims received or served upon the Board or the Authority, as the case may be, and their respective members, officers, employees, or agents, together with a written request for indemnification pursuant to this Section;

(2) The Board or the Authority, as the case may be, and their respective members, officers and employees shall cooperate in aiding the indemnifying party to investigate, adjust, settle or defend each claim, action or proceeding.

ARTICLE VI

COVENANTS

SECTION 6.1. RATE COVENANT. (A) The Board hereby covenants and agrees to establish, fix and revise, from time to time, fees, rates, rents or other charges for the use of, or services furnished, rendered or made available by the System adequate, together with any other available funds, to provide for (1) the timely payment of the Principal Installments of and interest on all Bonds and the principal of and interest on any other indebtedness of the Authority payable from Revenues, (2) the proper operation and maintenance of the System, (3) all other payments required for the System not otherwise provided for and (4) all other payments required pursuant to this Financing Agreement and the Operation Agreement.

(B) Without limiting the generality of subsection (A) above, the Board shall establish and collect rates, fees and charges sufficient in each Fiscal Year so that Revenues (net of non-recurring items) collected in such Fiscal Year will be at least equal to the sum of (1) one hundred fifteen percent (115%) of estimated Aggregate Debt Service and Projected Debt Service payable in such Fiscal Year, (2) one hundred percent (100%) of the Operating Expenses and Authority Expenses payable in such Fiscal Year and (3) one hundred percent (100%) of the amount necessary to pay the Required Deposits for such Fiscal Year; provided, however, that any Principal Installment which is a Refundable Principal Installment may be excluded from Aggregate Debt Service for purposes of the foregoing but only to the extent that such Principal Installment is payable from funds specifically held in trust therefor and which were derived from sources other than Revenues. A failure to generate Revenues in accordance herewith shall not constitute an "event of default" within the meaning of Article VIII hereof, if the Board takes timely action to correct any such deficit under subsection (C) below.

(C) The Board shall review the adequacy of fees, rates and charges at least semi-annually. If such semi-annual review, or the report of the Rate Consultant pursuant to Section 6.2 hereof, indicates that the rates, fees and charges are, or will be, insufficient to meet the requirements of this Section 6.1, the Board shall promptly take the necessary action to cure or avoid any such deficiency. The Board hereby agrees that it will diligently pursue the actions necessary to cure or avoid any such deficiency.

(D) Except (1) to the extent required by law, and (2) as otherwise provided herein, the Board will not furnish or supply or cause to be furnished or supplied any product, use or service of the System, free of charge (or at a nominal charge) to any Person, public or private, and the Board will enforce (or cause the City to enforce) the payment of any and all amounts owing to the Board for use of the System in accordance with Section 6.7 hereof.

(E) In estimating Aggregate Debt Service for purposes of subsection (B) of this Section 6.1, the Board shall be entitled to assume that variable rate Bonds will bear such interest rate or rates as the Authority shall determine; provided, however, that the interest rate or rates assumed shall not be less than the interest rate borne by such variable rate Bonds at the time of determination of Aggregate Debt Service.

SECTION 6.2. CONSULTING ENGINEER AND RATE CONSULTANT. (A) The Authority shall retain annually a Consulting Engineer for a term of one year and the Board shall retain annually a Rate Consultant for a term of one year whose duties, respectively, shall be to make any certificates and perform any other acts required or permitted of the Consulting Engineer and the Rate Consultant hereunder, under the Operation Agreement or under the Resolution. The same person or firm may perform the duties and functions of the Consulting Engineer and the Rate Consultant.

(B) In every other Fiscal Year, the Consulting Engineer and, in every Fiscal Year, the Rate Consultant shall make an examination of, and shall report on, the properties and operations of the System. Such report shall be submitted to the Authority, the Board, the Mayor, and the Trustee no later than November 1 of each such year (commencing November 1, 2004 with respect to the Rate Consultant and November 1, 2003 with respect to the Consulting Engineer) and shall, at a minimum, set forth the following:

(1) the Consulting Engineer's advice and recommendation as to the proper operation, maintenance and repair of the System during the ensuing two Fiscal Years, and an estimate of the amounts of money necessary for such purposes and the amounts required for the operation and maintenance reserve account (in an amount at least equal to two months of Operating Expenses, but not including debt service on the City's outstanding bonds, if any);

(2) the Consulting Engineer's advice and recommendations as to improvements which should be made during the ensuing five Fiscal Years, and an estimate of the amounts of money necessary for such purposes, showing the amount to be expended during each of such Fiscal Years from the proceeds of Bonds issued under the provisions of the Resolution and the amount recommended to be expended during such Fiscal Year from the amounts held in the Construction Account;

(3) the Rate Consultant's recommendation as to any necessary or advisable revisions of rates, fees and charges and such other advice and recommendation as it may deem desirable; and

(4) the Consulting Engineer's findings whether the System has been maintained in good repair and sound operating condition, and its estimate of the amount, if any, required to be expended to place such properties in such condition and the details of such expenditures and the approximate time required therefor.

(C) The Board covenants that, if any such report shall set forth that the Properties of the System have not been maintained in good repair and sound operating condition, the Board shall take all necessary action as will promptly restore the Properties to good repair and sound operating condition with all expedition practicable.

(D) The Board further covenants that (1) the Consulting Engineer and the Rate Consultant shall at all times have free access to all properties of the System and every part thereof and the records, maps, diagrams and other drawings thereof for the purposes of inspection and examination, and (2) their books, records and accounts may be examined by the Consulting Engineer and the Rate Consultant at all reasonable times.

SECTION 6.3. OPERATION AND MAINTENANCE. The Board hereby covenants as follows:

(A) the Board shall at all times operate the System, and in a sound and economical manner and shall maintain, preserve, and keep the System with the appurtenances and every part and parcel thereof, in good repair, working order and condition, and shall from time to time make, or cause to be made, all necessary and proper repairs, so that at all times the operation of the System may be properly and advantageously conducted in accordance with Industry Standards.

(B) Nothing herein contained shall require the Board to operate, maintain, preserve, repair replace, renew or reconstruct any part of the System if there shall be filed with the Board, the Authority and the Trustee (1) a certificate of an Authorized Representative of the Board stating that in the opinion of the Board abandonment of operation of such part of the System will not adversely affect the operation of the System or the amount of Revenues derived therefrom and is not prejudicial to the interests of the Board, the Authority or the Bondholders and (2) a certificate of the Consulting Engineer concurring with such statement;

(C) the Board shall enforce the rules and regulations governing the operation, use and services of the System established from time to time by the Board, and the Board shall observe and perform all of the terms and conditions contained in the Act, and comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body having, competent jurisdiction of the Board or the System; provided, however, that the failure of the Board to comply with the covenant contained in this subsection (C) for any period shall not constitute an event of default on its part so long as the Board (1) is taking reasonable and timely steps to permit compliance and (2) the Board shall have delivered to the

Authority a certificate of the Consulting Engineer which (a) sets forth in reasonable detail the facts and circumstances attendant to such noncompliance, (b) sets forth the steps being taken by the Board to permit compliance, (c) sets forth the estimated date on which the Board will be in compliance and (d) states that in the opinion of the Consulting Engineer such noncompliance during the period described will not adversely affect the operation of the System or the amount of Revenues to be derived therefrom;

(D) the Board shall not create or suffer to be created any lien or charge upon the System or any part thereof, except for Permitted Encumbrances;

(E) the Board shall, within the limits of funding provided by the Authority or from any governmental grants or other sources and in accordance with the provisions of Section 4.1 of the Operation Agreement and Article II of this Financing Agreement, undertake and complete such improvements to the System, including but not limited to capital improvements, replacements, renewals, alterations, increases, enlargements, extensions and additions, whether structural, non-structural, ordinary or extraordinary, and such planning, studies, designs and surveys as are necessary or appropriate to effect such improvements and the Construction of such Projects as the Board, based upon recommendations from the Consulting Engineer, shall determine, together with such terms and conditions, to be necessary and appropriate to preserve and keep the System in good working and safe order and condition. Any such improvements so undertaken by the Board pursuant to funding: (i) if provided by the Board shall be owned by the Board, and (ii) if provided by the Authority, may be conveyed to the Board, and in either case by lease or other conveyance upon such terms as the Board and the Authority may agree; and

(F) Nothing contained in the Operation Agreement or in this Financing Agreement shall be construed as preventing the Board from undertaking, to the extent permitted by law, improvements to the System (including the acquisition of equipment therefor), on its own initiative from revenues available to the Board pursuant to Section 1230-j, or from funds other than the proceeds of obligations issued by the Authority to finance same or from funds available from Section 4.5 of this Financing Agreement.

SECTION 6.4. ANNUAL BUDGET. (A) Sixty (60) days before the commencement of the Fiscal Year, (or on such later date as the Authority and the Board may agree) the Authority shall deliver to the Board a certified copy of the Authority Budget for the ensuing Fiscal Year showing the Authority Expenses and the Debt Service and Projected Debt Service for all Series of Bonds and all Projected Series of Bonds for such Fiscal Year.

(B) Based upon the information contained in (1) the Authority Budget, (2) the City's certification pursuant to Section 6.2(A)(1) of the Operation Agreement, (3) the certificate delivered to the Board pursuant to Section 6.2(A)(2) of the Operation Agreement and (4) the report of the Consulting Engineer described in Section 6.2 hereof (collectively, the "Budget Documents"), the Board in consultation with the Authority shall prepare the Annual Budget for the ensuing Fiscal Year. In addition to the information contained in the Budget Documents, the Board shall also make provision in the Annual Budget (i) for Board Expenses for the ensuing Fiscal Year, (ii) for the amount, if any, required to be deposited in the Operation and

Maintenance Reserve Account in accordance with Section 4.4 hereof and (iii) after consultation with the Consulting Engineer, for the amount to be deposited in the Construction Account. Thereafter, the Board shall adopt such Annual Budget.

(C) Promptly after adoption of the Annual Budget, and in no event later than January 31 (or such other date as the Authority and the Board may agree) of each year, the Board shall establish the rates, fees and charges for the use of the System for the ensuing Fiscal Year. The Board may from time to time, either before or after commencement of the Fiscal Year to which it relates, amend the Annual Budget, but (except for its own expenses) only in accordance with and after receipt of amended Budget Documents. If, as of the first day of any Fiscal Year an Annual Budget has not been adopted, the Annual Budget for the immediately preceding Fiscal Year shall be the Annual Budget for such Fiscal Year until a new Annual Budget is adopted. The Annual Budget for Fiscal Years 2003 and 2004 adopted by the Board by resolution on or prior to the date of adoption of the Resolution shall be deemed to satisfy all the procedural requirements of this Section 6.4.

SECTION 6.5. COMPLIANCE WITH AGREEMENTS; TAX EXEMPTION. (A) The Authority and the Board each hereby covenant one with the other that each of them shall take all such actions or refrain from taking all such actions, as the case may be, so as to comply with the terms and provisions of the Acquisition Agreement, the Operation Agreement and this Financing Agreement.

(B) The Authority hereby covenants with the Board that it shall take all such actions or refrain from taking all such actions, as the case may be, so as to comply with the terms and provisions of the Resolution and this Financing Agreement.

(C) The Authority further agrees that it will take no action to amend or supplement the Resolution in any way which would adversely affect the interest of the Board without the prior written consent to such amendment or supplement by those parties thereby affected.

(D) The Authority and the Board each hereby covenant one with the other that, so long as any Bonds shall be outstanding under the Resolution, each will (1) not take any action, or fail to take any action, which, if taken or not taken, as the case may be, would adversely affect the tax-exempt status of the interest payable on the Bonds then outstanding and (2) consent to any amendments to the Financing Agreement, the Operation Agreement and the Resolution required, in the opinion of Bond Counsel, to maintain such tax exemption. Such amendments may be made without the consent of any Bondholders.

SECTION 6.6. COMPLIANCE WITH RESOLUTION. The Board shall take all such actions and refrain from taking all such actions, as the case may be, and otherwise shall operate the System as shall ensure its compliance, and the compliance of the Authority, with the terms and provisions of the Resolution, or any other agreement approved by the Board entered into by the Authority in connection with the undertaking or financing of a Project and which shall, by its terms, directly or indirectly apply to the Board.

SECTION 6.7. ENFORCEMENT OF RULES AND REGULATIONS. In accordance with Section 1230-i of the Act, the Board shall enforce the rules and regulations providing for discontinuance of or disconnection from the supply of water for nonpayment of fees, rates, rents or other charges imposed by the Board, provided that such discontinuance or disconnection shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to the Public Service Law of the State.

SECTION 6.8. GOVERNMENTAL APPROVALS. The Board represents to the Authority that, with respect to the Projects listed on or subsequently added to Appendix A and the Capital Improvement Plan, the State Department of Health and the State Department of Environmental Conservation have completed (or, with respect to Projects to be added to such Appendix A and Capital Improvement Plan, will have completed) all statutory reviews and approvals with respect to such Projects required to be completed prior to the date any such Projects are published by the Board for competitive bids or entry into any contracts therefor, as the case may be.

SECTION 6.9. BOOKS, RECORDS, ACCOUNTS AND AUDITS. (A) If the Authority so requests pursuant to Section 1230-i of the Act, the Board shall provide to the Authority such reports concerning Projects as may be required by the Authority.

(B) Each of the Authority and the Board shall keep, or cause to be kept, proper books of record and account in, which complete and correct entries shall be made of all transactions relating to their corporate purposes under the Act. In accordance with the Act and Section 2800 of Title 1 of Article 9 of the Public Authorities Law of the State, the Authority and the Board shall each annually prepare a detailed report concerning their activities for the Fiscal Year which shall comply with the Act and Section 2800 of Title 1 of Article 9 of the Public Authorities Law of the State and submit same to the Mayor, the Director of the Budget of the City, the Controller, the Governor, the State Legislature and the State Comptroller, which report shall set forth: (1) their respective operations and accomplishments; (2) their respective receipts and disbursements, or revenues and expenses, during such Fiscal Year in accordance with the categories or classifications established by them for their own operating and capital outlay purposes; (3) their respective assets and liabilities at the end of their respective Fiscal Year including the status of reserve, depreciation, special or other funds and including the receipts and payments of these funds; and (4) a schedule of the Authority's bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year. Such reports shall be submitted within one hundred twenty (120) days of the end of each Fiscal Year.

(C) The accounts of the Authority and the Board shall be subject to the review of the Controller, and he or his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the Authority and the Board, including their respective receipts, disbursements, contracts, sinking funds, investments and any other matters relating to their respective financial standing and fiscal affairs.

SECTION 6.10. LIENS. Until the Bonds (or any other bonds, notes or other evidences of indebtedness issued by the Authority for its purposes under the Act) have been paid in full or

provision has been made therefor in accordance with the Resolution (or such other resolution, trust indenture or similar document), the Board shall not create, and, to the extent it has the power to do so, shall not permit to be created, any lien upon or pledge of the Revenues, except the lien and the pledge thereon created by the Act, the Resolution and this Financing Agreement.

SECTION 6.11. SECURITY INTERESTS. Except to the extent provided by the Act, neither the Board nor the Authority may grant any Bondholder any security interest in any of the assets or Properties of the Board (other than the Revenues which have been pledged pursuant to the terms hereof and of the Resolution).

SECTION 6.12. COMPLIANCE WITH LAW. The Authority and the Board hereby covenant and agree, each for itself, that it will observe and perform all of the terms and conditions contained in the Act, and comply with all valid laws, acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body having competent jurisdiction over its property or affairs.

SECTION 6.13. FURTHER ASSURANCES. To the extent permitted by law, the Board from time to time shall make, do, execute, adopt, acknowledge and deliver and take all and every such further acts, deeds, conveyances, assignments, resolutions, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning, confirming and effecting the rights assigned and the Revenues pledged hereby.

SECTION 6.14. LIMITATIONS ON OFFICERS AND EMPLOYEES. The Authority may not employ any paid officers or employees. The Board and the Authority may engage the services of independent contractors, including those independent contractors reasonably required in connection with the issuance of Bonds, or required by the Trustee, or reasonably required in the performance of, and subject to the terms of the Operation Agreement or this Financing Agreement, as they may deem appropriate, including legal counsel, and upon such terms and conditions as they may deem appropriate.

ARTICLE VII

INSURANCE

SECTION 7.1. PERMANENT INSURANCE. The Board covenants that so long as any of the Bonds shall remain outstanding, it will insure or cause to be insured any at or above ground physical structures of the System against loss or damage by fire and such other risks as are generally included in extended coverage insurance, excepting only during the periods and to the extent that the Board or contractors shall carry builders' risk or other insurance during construction. The policy or policies of such permanent insurance shall be issued by a responsible insurance company or companies authorized and qualified to do business under the laws of the State, in such reasonable amounts as are usually carried for like properties and as may be

recommended by the Consulting Engineer or an independent insurance consultant retained by the Board.

The Board covenants that it will file promptly with the Trustee either the policies and endorsements from time to time issued by the insurance company or companies, or proper memoranda of insurance, and as policies or endorsements are renewed from time to time, the new policies or renewal endorsements, or memoranda thereof. The Authority will cause the Trustee to notify the Board if it becomes aware that said policies, endorsements, or other evidences of permanent insurance do not comply with the requirements of this Section 7.1. If the Board shall at any time fail to maintain the required permanent insurance upon lapse of builders' risk or other insurance carried during Construction, or upon lapse of any permanent insurance or otherwise, the Trustee may, but shall be under no duty to do so, contract for the required insurance and require the Authority to pay the insurance premiums.

SECTION 7.2. INSURANCE DURING CONSTRUCTION. The Board covenants to maintain or to require the contractors to maintain during the Construction of Projects, insurance against loss or damage by fire and lightning and other risks included in extended coverage, under separate insurance policies with builders' risk and extended coverage endorsements, issued by responsible insurance companies authorized and qualified to do business in the State. Such policies shall be issued in such reasonable amounts as are usually carried for like work and materials covered by the Construction contracts and as may be recommended by the Consulting Engineer or an independent insurance consultant retained by the Board. The Board covenants to file each such policy, or a proper memorandum of insurance, with the Trustee prior to submission of the first requisition for a payment for insurable work or materials to each contractor. If any such insurance shall expire prior to completion and the maintenance of permanent insurance under Section 7.1, the Board covenants to file with the Trustee a proper renewal endorsement or memorandum thereof. In the event that the proceeds of permanent insurance shall be applied as provided in subdivision (b) of Section 7.3 under Construction contracts without additional financing, the Board shall maintain, or cause contractors to maintain, insurance during Construction as above provided.

SECTION 7.3. DAMAGE OR DESTRUCTION OF THE SYSTEM; APPLICATION OF INSURANCE PROCEEDS. In the event that any of the buildings, structures, additions or improvements of the System shall be wholly or partially destroyed by fire or other casualty covered by permanent insurance, the Board covenants and agrees to take all such actions and do all such things as may be necessary to enable recovery to be made upon the policy or policies of insurance covering the risk to the end that all proceeds of insurance may be expeditiously collected.

The proceeds of permanent insurance shall be applied, subject to the provisions of this Section 7.3, to the reconstruction, restoration, replacement or repair of the damaged or destroyed property, or to the acquisition or construction of Projects for the operation of the System or to the redemption or purchase of Bonds as follows:

(A) Deposit in Construction Account. If the Board shall by resolution determine to apply all or part of said proceeds to the reconstruction, restoration or repair of the damaged

property or to the Construction or acquisition of a Project, said proceeds or the portion thereof to be so applied shall be transferred to the Trustee for deposit in the Ongoing Project Account and disbursed by the Trustee from time to time upon requisitions signed by an Authorized Representative of the Board, stating the amount to be paid and designating the payee and certifying that the payment is due and payable for the reconstruction, restoration, replacement or repair of the damaged or destroyed property or for the Construction or acquisition of a Project, and, if the Consulting Engineer is employed to supervise the work, upon submission of certificates of the Consulting Engineer in form satisfactory to the Trustee approving such payment; provided, however, that if the Board shall certify to the Authority and the Trustee that the amount to be so applied from said insurance proceeds is not more than \$1,000,000, then the Board may retain said insurance proceeds for application toward the reconstruction, restoration, replacement or repair of the damaged or destroyed property or toward the Construction or acquisition of a Project.

(B) Deposit of Funds. All proceeds of permanent insurance not applied as hereinabove authorized shall be transferred to the Trustee for deposit in the General Account and applied by the Trustee to redeem or purchase Bonds in accordance with the Resolution.

Nothing in this Section 7.3 shall be construed to relieve the Board under this Financing Agreement from its obligation to maintain the System in good repair, working order and condition, excepting only that to the extent that the proceeds of insurance shall be applied to the reconstruction, restoration, replacement or repair of damaged or destroyed property, or to the Construction or acquisition of a Project, or shall be applied to the purchase, redemption or defeasance of Bonds, then and to such extent the Board shall be relieved of such obligation with respect to the damaged or destroyed property.

SECTION 7.4. OTHER INSURANCE. The Board covenants that it will at all times cause its chief financial officer and all other officers and employees handling its funds to be bonded in adequate amounts by responsible bonding companies. The Board further covenants that so long as any of the Bonds are outstanding, it will maintain public liability, including bodily injury and property damage insurance, with responsible insurance companies in such amounts as may be recommended by a Consulting Engineer or an independent insurance consultant retained by the Board.

SECTION 7.5. MISCELLANEOUS. All insurance policies shall be open to the inspection of the Bondholders of the Bonds and their representatives at all reasonable times. Any appraisal or adjustment of any loss or damage and any settlement or payment of indemnity therefor, which may be agreed upon between the Board and any insurer, shall be evidenced to the Trustee by a Certificate of an Authorized Representative. The Trustee may rely upon such certificate as conclusive, and shall in no way be liable or responsible for the collection of insurance money in case of any loss or damage. All such insurance policies shall be cancelable only on thirty (30) days prior notice to the extent reasonably practicable under then prevailing insurance industry standards.

SECTION 7.6. ALTERNATIVE INSURANCE. Notwithstanding the foregoing provisions of this Article, if at any time the Board determines that such insurance is not obtainable at a

reasonable cost with reasonable terms, or the Board determines that such insurance is not commercially available, or the Board determines that a Qualified Self-Insurance Program is in the best interests of the Board, and the Authority concurs, it will not constitute an Event of Default under the provisions of this Agreement, if the Board shall carry or cause to be carried such insurance through Qualified Self Insurance, provided that the requirements hereinafter set forth in this paragraph and the next two succeeding paragraphs are satisfied. "Qualified Self Insurance" means insurance maintained through a program of self insurance or, to the extent permitted by law, insurance maintained with an association in which the Board has a material interest or of which the Board has control, either singly or with others.

Prior to the participation in any plan of Qualified Self Insurance, the Board shall deliver to the Authority and the Trustee (i) a copy of the proposed plan, and (ii) a written report from a Consulting Engineer containing an evaluation of the proposed plan together with an opinion to the effect that (A) the proposed Qualified Self Insurance will provide the coverage otherwise required by this Section, and (B) the proposed Qualified Self Insurance plan provides reserves in accordance with Industry Standards.

Each plan of Qualified Self Insurance shall be in written form, shall provide that upon the termination of such plan reserves will be established or insurance acquired in amounts adequate to cover any potential retained risk in respect of the period of self insurance, and shall be reviewed annually by the Consulting Engineer who shall deliver to the Board a report on the adequacy of the reserves established thereunder in light of risks incurred. If the Consulting Engineer determines that such reserves are inadequate in light of the risks incurred, he shall make recommendations as to the amount of reserves that should be established and maintained, and the Board shall comply with such recommendations. A copy of each Qualified Self Insurance Plan and of each annual report thereon shall be delivered to the Trustee.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1. EVENTS OF DEFAULT. An "event of default" or a "default" shall mean, whenever they are used in this Financing Agreement, any one or more of the following events:

(A) failure by the Board to make the payments required to be made to the Authority pursuant to Section 4.2 of this Financing Agreement;

(B) failure of the Authority or the Board to observe any covenant, term or condition of this Financing Agreement, other than as referred to in clause (A) of this Section, provided, however, that such failure shall have continued for a period of sixty (60) days after written notice, specifying such failure and requesting that it be remedied, is given to the Board, or both, as the case may be, by the Authority, unless the Authority shall agree in writing to an extension of such time prior to its expiration and provided further, that if the failure stated in the notice

cannot be remedied within the applicable period, the Authority shall not unreasonably withhold its consent to an extension of such time if corrective action has been instituted by the Board, within such period and is being diligently pursued;

(C) the Authority shall file a petition or otherwise seek relief under any federal or State bankruptcy or similar law; or

(D) the respective provisions of the Act pursuant to which the Resolution has been adopted or the Bonds have been issued, including, without limitation, those provisions pursuant to which the lien upon the Revenues of the Board has been created pursuant to this Financing Agreement and the Resolution and those provisions establishing the powers and obligations of the Board and the relationship of the Authority to the Board as contemplated by the Act, shall be materially and adversely limited, altered or impaired by any legislative action or any final judgment or the terms, conditions and security provided under this Financing Agreement and the Resolution shall be materially and adversely limited, altered or impaired by any legislative action or any final judgment.

SECTION 8.2. REMEDIES. (A) Whenever any event of default shall have occurred and be continuing, and written notice of the default, if required, shall have been given to the Board by the Authority or by the Trustee and the default shall not have been cured within any curative period provided therefor, the Authority and the Trustee may take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and as they thereafter become due, and the Authority and the Trustee, so long as any Bonds are outstanding, may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement or covenant of the Board under this Financing Agreement.

(B) In addition, if there is any default by the Board in the making of payments to the Authority or to the Trustee for the benefit of the Authority required under this Financing Agreement, as a result of the failure by the Board to impose sufficient fees, rates, rents or other charges, the Authority may, pursuant to Section 1230-j of the Act, petition for the appointment by any court having jurisdiction in any proper action of a receiver to administer on behalf of the Board, under the direction of said court, the affairs of the Board in order to achieve Revenues at least sufficient to make such payments, and by and with the approval of said court, to establish, fix and revise, from time to time, fees, rates, rents or other charges at least sufficient therefor.

SECTION 8.3. REMEDIES NOT EXCLUSIVE. (A) The remedies conferred upon or reserved to the Authority in respect of any event of default are not intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Financing Agreement or now or hereafter existing at law or in equity or by statute.

(B) No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

In order to entitle the Authority to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be expressly required herein.

SECTION 8.4. FORCE MAJEURE. Each party's performance under this Agreement will be excused if the party is unable to perform because of Force Majeure. In the event of any such Force Majeure, the party unable to perform its obligations hereunder shall notify the other party within twenty-four (24) hours of the existence of such Force Majeure and shall be required to resume performance of its obligations under this Agreement upon the termination of the aforementioned Force Majeure. During any such Force Majeure, the affected party shall continue to fulfill its obligations under this Financing Agreement on a best-efforts basis.

ARTICLE IX

TERMINATION

SECTION 9.1. TERMINATION. This Financing Agreement shall terminate, and the covenants and other obligations contained herein shall be discharged and satisfied, when (1) payment of all indebtedness of the Authority has been made or provided for in accordance with the Resolution (or such other resolution, trust indenture or similar document securing such indebtedness) and (2) either all payments required hereunder have been made in full, or provision for such payments satisfactory to the Authority has been made, or the City pays or assumes all liabilities, obligations, duties, rights and powers of the Authority hereunder.

ARTICLE X

THE ACQUISITION AGREEMENT AND THE OPERATION AGREEMENT

SECTION 10.1. THE ACQUISITION AGREEMENT. The Acquisition Agreement which is attached hereto as Exhibit A is hereby declared to be a part of this Financing Agreement and incorporated into this Financing Agreement in full at this point as though set forth in full herein.

SECTION 10.2. THE OPERATION AGREEMENT. The Operation Agreement which is attached hereto as Exhibit B is hereby declared to be part of, this Financing Agreement and incorporated into this Financing Agreement in full at this point as though set forth in full herein.

ARTICLE XI

AMENDMENTS TO THE FINANCING AGREEMENT, THE OPERATION AGREEMENT AND THE ACQUISITION AGREEMENT

SECTION 11.1. AMENDMENTS TO FINANCING AGREEMENT; CONSENTS. (A) No amendment hereto shall be effective unless it is in writing, signed by each of the parties hereto and, except for an amendment to Appendix A, consented to in writing by the Trustee.

(B) Except as hereinafter expressly provided, the parties hereto may enter into any amendment, change or modification of this Financing Agreement, including without limitation amendments to Appendix A; provided, however, that except as provided in Section 11.2(B) hereof, the parties hereto shall not enter into, or consent to, any amendment, change or modification of the provisions of this Financing Agreement, without first obtaining the consent of the Bondholders in accordance with the provisions of the Resolution, if such amendment, modification or change would materially adversely affect the rights of the Bondholders by modifying or revoking the provisions of this Financing Agreement with respect to: (1) the grant of Revenues to the Authority; (2) the application of the proceeds of Bonds to pay the Costs of Projects; (3) the deposit or application of the Revenues in the Local Water Fund; (4) the representations and warranties of the Board; (5) the consent to assignment by the Authority; (6) the covenants relating to the establishment and collection of rates and charges, appointment of the Consulting Engineer and the Rate Consultant, operation and maintenance, adoption of the Annual Budget, compliance with law, the Financing Agreement, the Acquisition Agreement and the Resolution, enforcement of rules and regulations, the obtaining of governmental approvals, maintenance of books, records and accounts, the creation of liens on or security interests in the Revenues or the System and further assurances; (7) the agreement of the State; (8) events of default and remedies; (9) termination; (10) the controlling effect of the Resolution and the Bonds; (11) severability of invalid provisions; or (12) governing law.

SECTION 11.2. AMENDMENTS TO ACQUISITION AGREEMENT AND THE OPERATION AGREEMENT; CONSENTS. (A) The Board hereby further covenants and agrees that it will not enter into nor consent to any amendment, change or modification of the Acquisition Agreement or Operation Agreement, without first obtaining the consent of the Bondholders in accordance with the provisions of the Resolution, if such amendment, modification or change would materially adversely affect the rights of the Bondholders by modifying or revoking the provisions of the Acquisition Agreement or the Operation Agreement with respect to: (1) the term of the Operation Agreement; (2) the right of the Board to restrict entry to or use of the System; (3) the payments by the Board relating to operation and maintenance of the System and construction of improvements thereto; (4) the right of the Board to the Revenues; (5) the obligation of the City to indemnify the Board and the Authority; (6) the obligation of the Board to operate and maintain the System; (7) the agreements of the Board as to care of the System; (8) compliance with applicable law, rules and regulations as to the use of the System; (9) billing and collection of rates and charges; (10) covenants as to the disposition of real and personal property constituting a portion of the System, encumbrances and further, assurances; (11) termination; or (12) severability of invalid provisions.

(B) The Board and the Authority hereby agree to make amendments to this Financing Agreement, the Operation Agreement and the Acquisition Agreement which are required by any rating agency to obtain or maintain a rating on the Bonds. Notwithstanding anything herein to the contrary, the consent of the Trustee or the Bondholders shall not be required for any such amendment.

SECTION 11.3. CONSENT OF TRUSTEE. In consenting to any amendment referred to in Section 11.1 and 11.2 hereof, the Trustee shall be fully protected in relying on an opinion of Bond Counsel, satisfactory to the Trustee, that such amendment is authorized or permitted by the terms of this Financing Agreement.

ARTICLE XII

MISCELLANEOUS

SECTION 12.1. CONFLICTS. The provisions, of this Financing Agreement are in no way intended to, nor shall such provisions, change or in any manner alter the terms of the Resolution, or adversely affect the security, rights or remedies of the Trustee or the Bondholders. In the event any provision of this Financing Agreement conflicts at any time, or in any manner, with the provisions of the Resolution or any Bond, the provisions of the Resolution or Bond shall be controlling and conflicting provisions of this Financing Agreement shall be disregarded.

SECTION 12.2. ASSIGNMENT. The Authority may, pursuant to the Resolution, pledge and assign to the Trustee certain of its rights and interests in and to this Financing Agreement, including, without limitation, its rights and interests in and to all amounts payable to the Authority hereunder, as security for the payment of the principal of, premium, if any, and interest on the Bonds. The Board hereby consents to such pledge and assignment and to the enforcement of such rights and interests by the Trustee.

SECTION 12.3. NO WAIVER. No failure to exercise, and no delay in exercising by the parties hereto, any right, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

SECTION 12.4. NOTICES. (A) All notices, requests and other communications under this Financing Agreement shall be deemed to have been duly given if in writing when (1) delivered, personally to the applicable address stated below, or (2) sent to the applicable address stated below by registered or certified mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery, or (3) delivery is refused by the addressee, as evidenced by the affidavit of the person who attempted to effect such delivery

except as provided in subsection (C) hereof, the addresses to which such notices, requests and other communications hereunder shall be delivered are as follows:

IF TO THE BOARD:

Attention: Executive Director
Niagara Falls Water Board
Michael C. O'Laughlin Municipal Water Plant
5815 Buffalo Avenue
Niagara Falls, New York 14304

with a copy to:

Office of the Secretary
Niagara Falls Water Board
Michael C. O'Laughlin Municipal Water Plant
5815 Buffalo Avenue
Niagara Falls, New York 14304

IF TO THE AUTHORITY:

Attention: Chairman
Niagara Falls Public Water Authority
Michael C. O'Laughlin Municipal Water Plant
5815 Buffalo Avenue
Niagara Falls, New York 14304

with a copy to:

Office of the Secretary
Niagara Falls Public Water Authority
Michael C. O'Laughlin Municipal Water Plant
5815 Buffalo Avenue
Niagara Falls, New York 14304

(B) Each party entitled to receive notices hereunder may, by notice given hereunder, designate any further or different addresses to which subsequent notices, requests and other communication shall be sent.

SECTION 12.5. SEVERABILITY. In the event that any one or more of the provisions contained in this Financing Agreement is or are invalid, irregular or unenforceable in any respect, the validity, regularity and enforceability of the remaining provisions contained in this Financing Agreement shall be in no way effected, prejudiced or disturbed thereby.

SECTION 12.6. HEADINGS. The descriptive headings of the several Articles and Sections of this Financing Agreement are inserted in this Financing Agreement for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

SECTION 12.7. GOVERNING LAW. This Financing Agreement shall be governed by, and construed in accordance with, the Constitution and laws of the State.


SECTION 12.8. PAYMENTS ON SATURDAYS, SUNDAYS AND HOLIDAYS. In any case where the date of any payment required to be made under this Financing Agreement shall be a Saturday or a Sunday or shall be, at the place designated for such payment a legal holiday or a day on which banking institutions in the City of Niagara Falls are authorized by law to close, then such payment shall not be made on such date but shall be made on the next preceding business day not a Saturday, Sunday or a legal holiday or a day upon which banking institutions in the City of Niagara Falls are authorized by law to close.

SECTION 12.9. COUNTERPARTS. This Financing Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.


SECTION 12.10. DATE OF FINANCING AGREEMENT. The date of this Financing Agreement shall be for identification purposes only. This Financing Agreement shall become effective upon the delivery of the initial issue of bonds, notes or other obligations of the Authority to the original purchasers thereof.

IN WITNESS WHEREOF, the Authority has caused this Financing Agreement to be executed in its name by its Chairman and the Board has caused this Financing Agreement to be executed in its name by its Chairman, all as of the date first above written.

NIAGARA FALLS PUBLIC WATER
AUTHORITY

By: 
Chairman

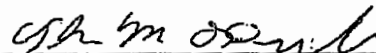
NIAGARA FALLS WATER BOARD

By: 
Chairman

STATE OF NEW YORK)
) ss.:
COUNTY OF NIAGARA)

On the 17th day of April, in the year 2003, before me, the undersigned, a notary public in and for said state, personally appeared Carmen A. Colao, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

THOMAS M. O'DONNELL
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN NIAGARA COUNTY
COMMISSION EXPIRES APRIL 30, 2003

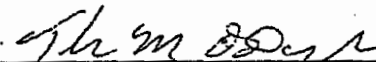


Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF NIAGARA)

On the 14th day of April, in the year 2003, before me, the undersigned, a notary public in and for said state, personally appeared Brian F. Kane, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

THOMAS M. O'DONNELL
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN NIAGARA COUNTY
COMMISSION EXPIRES APRIL 30, 2003



Notary Public

APPENDIX A

CITY'S EXISTING APPROVED PROJECTS

(A) Water Projects:

1. Freeze/Thaw Sludge Beds at Water Treatment Plant
2. Replace "City Market" Water Line, Ferry Avenue to Whitney Avenue
3. Replace Niagara Falls Boulevard Water Line, 89th to 98th Street
4. Replace Porter Road Water Line, Hyde Park to Robbins Drive
5. Hydraulic Distribution Model
6. Hydrant Replacement Program
7. Lead Service Line Replacement
8. Large Valve Replacement.

(B) Wastewater and Stormwater Projects:

1. NGI Obstruction Clearing
2. Process Control Automation
3. Chlorination System Upgrade
4. Porter Road Storm Drainage
5. CSO LTCP Evaluation
6. Computer System Software Pkg
7. Hauled Waste Receiving Facility
8. Railroad Repairs
9. Roadway Repairs/paving
10. Miscellaneous
11. Roof Rehabilitation
12. Falls St. Tunnel